1733.

SUPREME COURT OF THE UNITED STATES.

No. 83.

THE UNITED STATES, APPELLANT,

VERSUS

FRANCIS P. FATIO'S HEIRS.

APPEAL FROM THE SUPERIOR COURT OF EAST FLORIDA.

GENERAL INDEX.

	Original.	Print.
Petition for confirmation,	1 to 6	1
Answer of United States' attorney,	6 to 13	3
Replication of claimant,	13 to 14	6
Entry of evidence offered by claimant,	14	7
Testimony of Domingo Fernandez,	15	7
Do do. Chas. W. Clarke,	15 to 16	7
Documents offered by Claimants:		
No. 1.—Oath of allegiance of F. P. Fatio and others, to the Spanish Government,	16 to 17	8
No. 2.—Certificate of survey by Don Pedro Marrot,	17 to 18	8
Survey of Pedro Marrot,	19	8
Entry of evidence offered by United States,	20	9
Cause submitted to the court,	21	9
Decree of confirmation,	21 to 23	9
Appeal to Supreme Court,	23 to 24	10
Revival of appeal,	24 to 25	10
Citation of appeal,	25 to 26	11

Before the honorable the Judge of the superior court for the eastern district of Florida, and especially authorized by law to receive and adjudicate claims and titles to land in the district of East Florida:

Be it remembered, that, on the fourth day of May, in the year of our Lord one thousand eight hundred and twenty-nine, Francis P. Fatio and Louisa Hallowes, by Charles Downing, their attorney, brought and filed in the clerk's office of the superior court for the eastern district of Florida, their petition or claim to certain land therein mentioned; which said petition or claim is in the words and figures following, to wit:

TERRITORY OF FLORIDA.—*Superior Court, Eastern District, viz.*

To the honorable Joseph L. Smith, judge of said court, in chancery sitting:

Petition for confirmation.

The petition of Francis P. Fatio and Louisa Hallowes, heirs of Francis P. Fatio, deceased, respectfully showeth, that on the day of Governor I. Grant, then presiding over this province, at that time belonging to the British Government, made a grant of lands at a place called New Switzerland, on the east side of the river St Johns, consisting of ten thousand acres, to Francis P. Fatio, now deceased, the father of you

petitioners, which said British titles to said lands were lost during the troubles in this province in the year 1812, when the houses of your petitioner, F. P. Fatio, was burnt, and himself and family obliged to fly. Your petitioner's father represent that, by an order of the Spanish Government, to whose possession this province again reverted, the said lands now claimed by your petitioners were surveyed "by Don Pedro Marrot, captain of the 3d battalion of the infantry regiment of Cuba, and judge commissioned by the governor and commander-in chief of this, then, Spanish province of East Florida, for the survey and laying off lands ordered to be distributed by command of his Catholic Majesty." The said Pedro Marrot, in his certificate attached to his said survey, (which said certificate and survey will in due time be produced to this court,) declares that the titles made by the governor of his Britannic Majesty to Don Francisco Philip Fatio, the father of the present petitioners, under whom they claim for the said ten thousand acres of land, were then exhibited to him, the said Marrot, which said titles are the same now claimed by your petitioners to be lost. According to the survey of the said Marrot, the lands now claimed by your petitioners, as aforesaid, are bounded on the north by William Harvey's lands, on the south by the lands of F. M. Arredondo, sen., on the east by vacant pine lands, and on the west by the river St. Johns. The first line commences on the margin at a stake on said river, marked with a cross, and runs south 45 degrees, east 22 chains, to another pine with the same mark; the second line runs thence north 45 degrees 80 chains, to a stake with the same mark; the third line runs thence south 45 degrees east 320 chains, to another pine with the same mark; the fourth line runs thence south 30 degrees west 318 chains, to an oak with the same mark, on the banks of said river; thence along the meanders of the river to the beginning, (as will more fully appear, reference to the said plat and certificate of the said Marrot, dated on the 25th September, 1791, and heretofore referred to.)

Your petitioners further represent to your honor that, by the treaty between the kingdoms of Spain and Great Britain, ratified on the 12th September, 1783, by which this province of East Florida was transferred to the King of Spain, it is, amongst other things, provided in the 3d article thereof, that a certain space of time should be allowed to the subjects of his Britannic Majesty for the disposal of their property; and, by a royal order of said Catholic Majesty of the 5th April, 1786, permission was given to the said subjects of his Britannic Majesty, on the performance of certain conditions therein specified, to wit, on condition of taking an oath of allegiance to his said Catholic Majesty, that they, the said subjects of his Britannic Majesty then residents of East Florida, should be permitted to retain and keep possession of the lands which had been granted to them by the British Government in this province; and by the further order of Governor Quesada in the 4th article of his regulations, called the edict of good government, dated the 2d September, 1790, the said royal order of his Majesty, above alluded to, should be applied to, and enforced in, this then province of East Florida.

Your petitioners further aver, that Don Philip P. Fatio, the original British grantee, under whom your petitioners claim as children and heirs at law, did comply with all the conditions required of the said British subjects by the royal order of the 5th April, 1786, and by the regulations of the Spanish Governor Quesada of the 2d September, 1790, as aforesaid, that he, the said Francis Philip Fatio, took the oath of allegiance to the Spanish Go-

vernment on the day of , and obtained an order from the said Government for the survey of the lands as aforesaid, as required by the regulations and royal order as aforesaid; and that the said Francis P. Fatio, the original grantee, is now dead, and that your petitioners are his legal representatives, and claim title to the said land now petitioned for, the said land having been allotted to your said petitioners in the division of the estate of their deceased father.

Your petitioner, Francis P. Fatio, the younger, further showeth, that he, your petitioner, was a Spanish subject, and is now a citizen of Florida; and that he now is in cultivation and possession of the land as aforesaid, and, together with his said father deceased, has been so possessed since the date of the original grant as aforesaid by the British Government.

Your petitioners further state, that their claim to the land aforesaid, together with the survey of Marrot, have been regularly filed before the board of land commissioners in East Florida, and by them recommended to Congress for confirmation. Your petitioners are advised that the grant aforesaid is good and valid, and that, by the laws of the King of Spain, they are entitled to a fee simple estate therein, which, by the treaty between Spain and the United States of the 22d February, 1819, the United States are bound to recognize and confirm to them; without this claim of your petitioners, the United States, so far as they know or believe, are the rightful claimants to said lands.

Your petitioners, therefore, in consideration of the premises, pray that this honorable court will take jurisdiction and cognizance of this their petition, and a copy hereof, and a citation to show cause, &c. &c., may be served on Thomas Douglass, esquire, pursuant to the provision of the statute in such cases made and provided; and, finally, that this honorable court will decree to your petitioners the lands in this petition claimed, and a confirmation of their title thereto, and such other and further relief as your honor may deem fit in equity.

And your petitioners, as in duty bound, will pray over, &c. &c.,

DOWNING.

A copy of the foregoing petition, with a citation thereto annexed, was delivered to the marshal of this district, to serve on the attorney of the United States for this district; and the return of the said marshal thereon is in the words and figures following, to wit: "Served copy on Thos. Douglass, esquire, 18th May, 1829."

"WATERS SMITH,
Marshal."

And afterwards, to wit: on the seventh day of July, in the year of our Lord one thousand eight hundred and 29, Thomas Douglass, esquire, United States' attorney for the district of East Florida, brought and filed in the clerk's office aforesaid, his answer to the said petition; which said answer is in the words and figures following, to wit:

Superior Court, November term, 1829.

Answer of U. S. attorney.

THE UNITED STATES OF AMERICA,
ats.
FRANCIS P. FATIO & ELIZA HALLOWES.

The answer of Thomas Douglass, United States' attorney for the district of East Florida, to the petition or bill of complaint of Francis P. Fatio and

Eliza Hallowes: The said attorney, in the name, and for and on behalf of the same United States, saving and reserving to them now, and at all times hereafter, all and all manner of benefit of exception to the manifold errors, defects, and irregularities in the said petition or bill of complaint contained, for answer thereunto, or to so much thereof as it is material and necessary for them to answer unto, answereth and saith: That it is true, as the said petitioners have alleged, that, by the treaty between the kingdom of Spain and Great Britain, ratified on the twelfth day of September, in the year 1783, by which the province of East Florida was transferred to the King of Spain, it is, amongst other things, provided, in the second article thereof, that a certain space of time should be allowed to the subjects of his Britannic Majesty for the disposal of their property, and that, by a royal order of his said Catholic Majesty of the 5th April, 1786, permission was given to the said subjects of his Britannic Majesty, on the performance of certain conditions therein specified, to wit, on condition of their taking the oath of allegiance to his said Catholic Majesty, that they, the said subjects of his Britannic Majesty then residents of East Florida, should be permitted to continue dwelling where they were then established, and that, by the further order of Governor Quesada in the fourth article of his regulations, called the edict of good government, dated the second September, 1790, the said royal order was recognized and directed to be enforced in said province of East Florida. And this respondent further admits, that the said petitioners filed their claim to said land before the board of land commissioners in East Florida, as is in said petition or bill of complaint alleged, and that said board of land commissioners recommended the same for confirmation, and that the said Francis P. Fatio, the younger, was a Spanish subject, and is now a citizen of Florida; but, of the making of said supposed grant of lands (if any such were made,) by the said Governor I. Grant, to the said Don Francisco Philip Fatio, or whether the said Governor I. Grant had power to make any grants of lands at the time when said grant is alleged to have been made, or the making of said surveys, or the loss of said deeds or title papers, as in said petition or bill of complaint is alleged and set forth, or of the other matters and things in the said petition or bill of complaint alleged, this respondent has no knowledge, except what he has derived from perusing the said petition or bill of complaint; and cannot, therefore, either admit or deny the same, but respectfully prays this honorable court to require of the said petitioners due proof of the making and execution of said grant, (if any such was made) and of the powers of the said Governor I. Grant to make it, and of the making the said surveys, if any such were made, and of the said Don Francis P. Fatio's having complied with the conditions above mentioned, prescribed by his said Catholic Majesty as aforesaid, and of the recognition, (if any such there was) of the said grant by the Spanish Government, as the said petitioners have in their said petition or bill of complaint alleged and set forth; and of all the other matters and things in the said petition or bill of complaint alleged and set forth, as they are therein stated, according to law and the usages of courts of equity.

And this respondent avers that, if any such grant of lands was ever made by the said Governor I. Grant to the said Francis P. Fatio, it was made upon the express condition that the said Francis P. Fatio should yield and pay unto the King of Great Britain, his heirs and successors, or to his receiver general for the time being, or to his deputy or deputies for the time being, yearly, that is to say, at the feast of St. Michael in every year, at the

rate of one half penny sterling for each and every acre, and so in proportion to the quantity of acres contained in the said supposed grant; and that the said payment was to commence on the feast of St. Michael which should first happen after the expiration of two years from the date of said grant, and upon the farther express condition, that the said Francis Philip Fatio, his heirs and assigns, should, within three years after the date of said supposed grant, for every fifty acres of plantable land so granted, clear and work three acres, or else clear and drain three acres of swamp or sunken ground, or drain three acres of marsh, if any was contained therein, and also put and keep upon every fifty acres of said land accounted barren, three neat cattle, and continue the same thereon until three acres for every fifty should be fully cleared and improved; and if there should be no part of the said tract fit for the (then) present cultivation, without manuring and improving the same, he or they, within the time aforesaid, should be obliged to erect on some part of this land, one good dwelling-house, containing at least twenty feet in length and sixteen in breadth; to put on his land like number of cattle for every fifty acres; or, otherwise, if any part of the said tract should be stoney or rocky ground, and not fit for planting or pasture, should, within three years as aforesaid, begin to employ thereon, and so continue to work for three years next ensuing, in digging any stone quarry or mine, one good and able hand for every fifty acres, it should be accounted a sufficient cultivation and improvement. And this respondent farther saith that, to the said condition, was annexed a proviso, that every three acres that should be cleared and worked, or cleared and drained as aforesaid, should be accounted a sufficient seating, cultivation, and improvement, to save forever from forfeiture fifty acres of land in any part of said tract; but whether the said Francis Philip Fatio cleared, worked or drained, any of the said land within the time or times limited in said condition, or whether he ever put any cattle thereon, or kept and performed any of the said conditions above mentioned, so that any (and if any, how much) of the said tract of land became vested in him in his lifetime, this respondent does not know, nor does he know what improvements the said petitioners, or either of them, have made thereon since the death of the said Francis Philip Fatio, and cannot therefore admit that any have been made by either of them, but respectfully prays this honorable court that the said petitioners may be required to show and prove the specific improvements which have been made (if any were made) upon the said land by the said Francis Philip Fatio in his lifetime, or by the said petitioners since his death, together with the nature, extent, and value thereof: and this respondent further avers that the said Francis Philip Fatio has not paid the said sum of one half penny sterling per acre for each acre, *for each acre*, of the said land, for each and every year since the time which is fixed in the said condition of the said supposed grant, to wit, since the expiration of two years after the feast of St. Michael, which first happened since the time when the said supposed grant is alleged to have been made as aforesaid, but has wholly failed and neglected so to do; and this respondent farther saith that the said land was (among others) transferred by the Government of England to the Spanish Government, and by the said Spanish Government to the said United States, subject to all of the before-mentioned conditions, and that, by non-performance thereof, the said land (even if said grant was made in manner and form as in said petition or bill of complaint alleged, and the said Governor Grant had been invested by the said Government of Great Britain, with competent powers

to make it, which is not admitted,) has become vested in the same United States.

And this respondent farther prays, that the said petitioners may be required to show and prove, on the hearing of this cause, the specific powers under which the said Governor I. Grant claimed to act in making grants of land in East Florida at the time when the said supposed grant is alleged to have been made as aforesaid, and suggests that no power had been conferred upon the said Governor I. Grant, at that time, by the Government of Great Britain, to make grants of land in East Florida of the magnitude and description of the one claimed by the said petitioners in this suit.

And now, having fully answered all the matters and things in the said petition or bill of complaint alleged, the said attorney prays that the said United States may be hereof discharged, and that their reasonable costs and charges by them in and about the defence of this suit paid, laid out, and expended, may be adjudged and decreed to them.

THOS. DOUGLASS,
United States' Attorney, &c.

And afterwards, to wit, on the ninth day of May, in the year of our Lord one thousand eight hundred and thirty-two, the said Francis P. Fatio and Louisa Hallowes, by their said attorney, brought and filed in the clerk's office aforesaid, their replication; which said replication is in the words and figures following, to wit:

Superior Court, East Florida:

Replication. FRANCIS P. FATIO and LOUISA HALLOWES, *vs.* THE UNITED STATES. } *Land claim.*

The replication of Francis P. Fatio and Louisa Hallowes, complainants, to the answer of the United States, defendants, by their attorney, Thomas Douglass, esquire:

The replicants, saving and reserving to themselves all and all manner of advantage of exception which may be had and taken the manifest errors, uncertainties, and insufficiencies, of the answer of the said defendant, for replication thereunto, say that they do and will aver, maintain and prove their said bill to be true, certain, and sufficient in the law to be answered thereunto by the said defendant, and that the answer is very uncertain, evasive, and insufficient in the law to be replied unto by the said replicants, without that, that any other matter or thing in the said answer contained, material or effectual in the law to be replied unto, confessed or avoided, traversed or denied, is true; all which matters and things these replicants are ready to prove, aver, and maintain, as this honorable court shall direct, and humbly pray, as in and by their said bill they have already prayed.

C. DOWNING, *for Petitioners.*

Dated *May 9th*, 1832.

And afterwards, before the superior court for the eastern district of Florida, holden at the court-house in the city of St. Augustine, at the term of vember, in the year of our Lord one thousand eight hundred and twenty-nine, to which term this cause had come by regular continuance, to wit,

on Monday the seventh day of said term, and the ninth of said month, the following entry of record was made in this cause, to wit:

Entry of evidence offered by claimants.

FRANCIS P. FATIO and LOUISA HALLOWES, *vs.* THE UNITED STATES. } *Land claim.*

This day came the petitioner, Francis P. Fatio, in person, and moved the court that Domingo Fernandez and Charles W. Clarke be sworn as witnesses to testify in this cause: whereupon, the said Domingo Fernandez and Charles W. Clarke were duly sworn, and their testimony taken. The said F. P. Fatio then offered and filed the certificate of naturalization of F. P. Fatio, the father of the said petitioners, under whom they claim, which was received without objection by the attorney of the United States.

Testimony of Claimants.

Superior Court, East Florida.

FRANCIS P. FATIO and LOUISA HALLOWES, *vs.* THE UNITED STATES. } *Land claim.*

November 9th, 1829.

Testimony of Domingo Fernandez.

Domingo Fernandez, sworn as a witness in open court, on behalf of the claimants, states: I came to Florida when it was transferred from Great Britain to Spain; I know at that time, that the father of the claimants was in the possession of a tract of land on the east bank of the St. Johns river, called New Switzerland: it then looked like an old settlement: I was at the place and saw it. It is the same place that witness understands the claimant (Fatio) now resides. It was a place of considerable improvement at the time I saw it; had houses, orange trees, &c.

Testimony of Chas. W. Clarke.

Charles W. Clarke, sworn as a witness in open court, on behalf of the claimants, states: It is about forty years since I was at New Switzerland: it was then improved, had fine houses, orange grove, &c. on it; it is on the east bank of the river St. Johns, nearly opposite the mouth of Black creek. It was in the occupation of the present claimant's father at the time I was there; it then looked like an old settlement. Witness understands that the claimant (Fatio) now occupies the same tract.

Charles W. Clarke, examined on behalf of the United States, states: That the property claimed by the claimants has continued in the possession of the family till this time.

Documents offered and received in evidence in this case, on behalf of the said claimants.

No. 1,

Being a translation made by the translator and interpreter of this court from copy furnished and duly certified by the keeper of the public archives for East Florida, to wit:

TRANSLATION.

1790.

Oath of allegiance of F. P. Fatio and others to Span. Gov't.

In the city of St. Augustine of Florida, on the thirty-first of August of said year, before his lordship appeared Don Francisco Felipe Fatio, Don Jorge Flemming, and Don Girardo Forrester, catholic inhabitants of this city, who were sworn by God and the Holy Cross, according to the legal form, under which oath they promised fidelity and allegiance to his Catholic Majesty in this province, and obligated themselves to comply with, and obey his laws, his royal pragmatics, and other orders, particular or general, which might be given and published by his lordship or other competent judge, which admission is granted to them; wherein his Majesty resolves on the mode of their establishment, and the conditions which they ought to observe, to which they obligate themselves in a legal form: In testimony thereof, they signed it with his lordship, and the public interpreter, which I certify.

QUESADA.
MIGUEL ISNARDY.
FR'CO FE. FATIO.
JORGE FLEMMING.
GERARDO FORRESTER.

Before me: DOMINGO RODRIGUEZ DE LEON,
Notary of the Government.

No. 2,

Being a translation from the original on file in my office, made by the translator and interpreter of this court, to wit:

TRANSLATION.

Certificate of survey by Pedro Marrot.

I, Don Pedro Marrot, captain of the third battalion of infantry of Cuba, and by the governor and commandant general of this eastern province of Florida, for the survey and delineation of lands ordered by his Majesty to be distributed, do certify that, on the plantation called New Switzerland, there have been surveyed three hundred caballerias of land, which it appears by the titles given by his Britannic Majesty, which have been exhibited to me, comprehend ten thousand acres of land belonging to Don Francisco Felipe Fatio. The first line commences, and runs south, forty-five degrees east: it contains twenty-two chains, commencing at a stake marked with a cross, on the margin of the river St. John, partly bounded by the lands of Hannah Moore, and terminating at a pine with a cross: it continues north, forty-five degrees east, to a stake of lightwood marked with a cross, and contains eighty chains. The second line commences at the said stake, runs south, forty-five degrees east, to a pine marked with a cross, and measures three hundred and twenty chains. The third line runs south thirty degrees west: it commences at the said pine, and terminates at a live oak marked with a cross, on the margin of the river St. John, and measures three hundred and eighteen chains—the front is formed by the margin of the said river; the whole being in conformity to the orders given to me. The interested party signed this, with the surveyor, Samuel Eastlake; and in testimony thereof, and in order that it may be known to the secretary's office of this Government, where the interested parties will apply for their respective titles, I give the present, in New Switzerland, river St. Johns, 25th November, 1791.

PEDRO MARROT.

SAMUEL EASTLAKE.

And afterwards, before the superior court for the eastern district of Florida, holden at the court-house in the city of St. Augustine, at the term of March, in the year of our Lord one thousand eight hundred and thirty, to which term this cause had come by regular continuance, to wit, on Thursday the 7th day of said term, and the eleventh day of said month, the following entry of record was made in this cause, to wit:

FRANCIS P. FATIO and LOUISA HALLOWES,
vs.
THE UNITED STATES OF AMERICA. } *Land claim.*

Entry of evidence offered by U. S.

This day came the parties, by their solicitors, and the said defendant, by its solicitor, offered in evidence in this cause, an "extract from the definitive treaty of friendship and peace between his Britannic Majesty, the Most Christian King, and the King of Spain, concluded at Paris the 10th day of February, 1763," found in White's compilation, at page 258;—*also*, "proclamation of the King of Great Britain," found in White's compilation, at page 259;—*also*, "British ordinance," found in White's compilation, at page 260;—*also* "Report of the land commissioners of West Florida on British claims," found in White's compilation, at page 262;—*also*, "Royal order of the Marquis of Sonora to the Governor of St. Augustine of Florida," found in White's compilation, at page 271 and 272;—*and, lastly*, "A new decree of the governor to a memorial presented by Don Juan Johnson, St. Augustine, Florida, 30th August, 1785," found in White's compilation, at page 273; all of which were ordered to be received in evidence, the said claimants, by their solicitor, begging leave to reserve their right to object to the admissibility of the same in evidence.

And afterwards, before the superior court for the eastern district of Florida, holden at the court house in the city of St. Augustine, at the term of May, in the year of our Lord one thousand eight hundred and thirty two, to which term this cause had come by regular continuance, to wit, on Wednesday the third day of said term, and the ninth day of said month, the following entry of record was made in this cause, to wit:

FRANCIS P. FATIO and LOUISA HALLOWES,
vs.
THE UNITED STATES. } *Land claim.*

Cause submitted to the court.

This day came as well the counsel for the said claimants, as the attorney of the United States for this district, and this claim was submitted to the court for its decree thereon, on the petition, answer, replication, evidence and testimony filed herein.

And afterwards, at the same term of May, in the year of our Lord one thousand eight hundred and thirty-two, to wit, on Saturday, the sixth day of said term, and the twelfth of said month, the following *decree of confirmation* was entered of record in this cause, to wit:

Decree of confirmation.

FRANCIS P. FATIO and LOUISA HALLOWES, heirs of FRANCIS P. FATIO, deceased,
against
THE UNITED STATES OF AMERICA. } *Land claim,* 10,000 *acres.*

Whereas Francis P. Fatio and Louisa Hallowes, as heirs of Francis P. Fatio, deceased, did, in pursuance of the act of Congress of the United

S. 30° W. 318 chains
Stake
S. 45° E. 320 chains
Stake
N. 45° E. 80 chs
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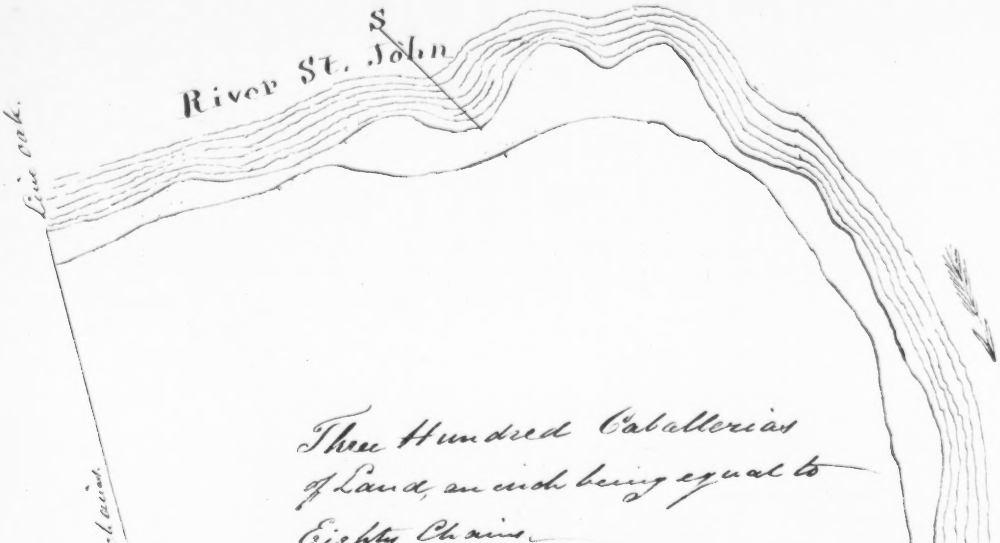
Stake
N


S
River St. John
Three Hundred Caballerias
of Land, an each being equal to
Eighty Chains

States, entitled "An act supplementary to the several acts providing for the settlement and confirmation of private land claims in Florida," and approved 23d day of May, 1828, on the fourth day of May, 1829, file their petition for the confirmation of certain lands therein mentioned, in the clerk's office of the superior court for the eastern district of Florida: and *whereas* the attorney of the United States for this district did duly appear and answer said petition, and such proceedings being had herein, as that this claim was submitted to the court for its decree thereon, and the said court having examined the claim of the said petitioners, and the answer of the attorney of the United States, together with the exhibits filed herein, and having maturely considered the same, doth *order, adjudge*, and *decree*, that this claim is *valid*, and that, in accordance with the laws and customs of Spain, and under and by virtue of the late "treaty of amity, settlement and limits between the United States of America and the King of Spain, ratified by the President of the United States on the 22d February, 1821, and under and by virtue of the laws of nations and of the United States, it is hereby *confirmed, adjudged*, and *decreed*, unto the said claimants, to the extent, and agreeably to the boundaries, as in the plat of the survey of said land made by Don Pedro Marrot, and dated 25th November, 1791, and filed herein, is set forth, to wit: "The first line commences and runs south forty-five degrees east—it contains twenty-two chains, commencing at a stake marked with a cross on the margin of the river St. Johns, partly bounded by the lands of Hannah Moore, and terminating at a pine with a cross—it continues north forty-five degrees east, to a stake of lightwood marked with a cross, and contains eighty chains; the second line commences at the said stake, runs south forty five degrees east, to a pine marked with a cross, and measures three hundred and twenty chains; the third line runs south thirty degrees west—it commences at the said pine, and terminates at a live oak marked with a cross, on the margin of the river St. Johns, and measures three hundred and eighteen chains: the front is formed by the margin of the said river."

And afterwards, before the superior court for the eastern district of Florida, holden at the court-house in the city of St. Augustine, at the term of October, in the year of our Lord one thousand eight hundred and thirty-two, to wit, on Tuesday, the fifth day of said term, and the fifth of said month, the following appeal was entered of record in this cause, to wit:

Appeal. Francis P. Fatio and Louisa Hallowes, *vs.* The United States of America. } *Land claim*, 10,000 *acres.*

This day came Thomas Douglass, esquire, attorney of the United States for this district, and moved the court that an appeal be granted in this case on behalf of the said United States, from the decree of this court to the supreme court of the United States; which is granted accordingly.

And afterwards, before the superior court for the eastern district of Florida, holden at the court-house in the city of St. Augustine, at the term of May, in the year of our Lord one thousand eight hundred and thirty-three, to wit, on Monday the 18th day of said term, and the tenth day of June, the following entry of record was made in this cause, to wit:

Revival appeal. The United States, *als.* Francis P. Fatio and Louisa Hallowes. } *Land claim*, 10,000 *acres.*

Now, on this day, came Thomas Douglass, esquire, United States' attor

ney for the district of East Florida, and suggests to the court now here, that, since the granting of the appeal in the above cause to the supreme court of the United States, a term of the said court has intervened, and that the record herein has not been sent up to the said court: wherefore, the said attorney, on behalf of the same United States, prays that the said appeal may be revived, and the order therefor extended, and a copy of the record in said cause, duly certified, may be sent up to the said supreme court before the first day of the next term thereof, to be holden on the second Monday of January next; and that citation, with notice of said appeal, may be forthwith issued by the clerk of this court to the appellees, and that the same may be served by the marshal of said district upon the said appellees, or their solicitor or agent, and returned to this court within thirty days from the issuing thereof; which is ordered accordingly.

And afterwards, on the eleventh day of June, in the year 1833, a citation of appeal, in pursuance of the above order, was issued in this case: which citation, and the return of the marshal of this district thereon, are in the words and figures following, to wit:

In the name and by the authority of the United States of America, to Francis P. Fatio and Louisa Hallowes, or to their agent, attorney, or solicitor, greeting:

Citation of appeal.

You are hereby cited and admonished that an appeal has been taken on the part of the United States from the decree of the superior court for East Florida to the Supreme Court of the United States in a certain claim to ten thousand acres of land, wherein you, the said Francis P. Fatio and Louisa Hallowes, are claimants, and the said United States respondent; and that the record in said cause will be forwarded to the said Supreme Court, to be placed on the docket of said court, at the next term thereof, to be holden on the second Monday of January next.

Witness, the honorable Robert Raymond Reid, judge of our said superior court, at the court-house in the city of St. Augustine, this eleventh day of June, A. D. 1833.

[SEAL.]

GEORGE GIBBS, *Clerk*,
Per K. B. GIBBS, *Deputy Clerk.*

THOS. DOUGLASS, *U. S. Att'y for E. Florida.*
C. DOWNING, *Attorney for Claimant.*

"Executed by delivering true copies to C. Downing, attorney for the within named Francis P. Fatio and Louisa Hallowes, they not being found in my district. June 19, 1833."

"SAMUEL BLAIR, *Marshal.*"

SUPERIOR COURT, *District of East Florida, to wit:*

I, George Gibbs, clerk of the said court for the district aforesaid, do hereby certify that the foregoing twenty-six pages contain a full, true, and complete transcript of the record and proceedings had in the case therein named in my charge.

In testimony whereof, I have hereto set my hand at the city of St. Augustine, this first day of July, one thousand eight hundred and thirty-three.

GEORGE GIBBS, *Clerk.*